

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 133 of 1994

With

FIRST APPEAL NO. 1152 of 1994

With

FIRST APPEAL NO.1153 of 1994

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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SPL LAND ACQUISITION OFFICER

Versus

SHARAVANKUMAR RAKHAJI CHAUHAN  
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Appearance:

MS DS PANDIT, AGP, for Appellant No.1

MR AKSHAY H. MEHTA, Central Govt. Standing Counsel,  
for Appellant no.2.

MR KALPESH ZAVERI for Respondent  
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CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE M.C.PATEL

Date of decision: 09/11/2000

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. These are appeals under section 54 of the Land Acquisition Act read with section 96 CPC, challenging the judgement and awards of the Reference Court under section 18 of the Land Acquisition Act. The lands in question were acquired for the purpose of construction of Deesa Airfield, situated at village Chekara in the case of First Appeal No.133/94, wherein the notification under section 4 of the said Act was published on 15th April 1987, and at Jhakol in the case of First Appeal Nos.1152 and 1153 of 1994, wherein the notification under section 4 of the said Act was published on 5th March 1987.

2. The land Acquisition Officer in his award under section 11 of the said Act awarded 0.70ps per square meter for non-irrigated land and Re.1 per square meter for irrigated land.

3. The land holders-original claimants not having accepted the awards, preferred References under section 18 of the said Act which came to be decided by the Reference Court by the impugned judgement and awards. The Reference Court, after appreciating the evidentiary material on record, determined the market value of the lands at Rs.9/- per square meter in respect of both the irrigated and non-irrigated lands, and awarded additional statutory benefits such as solatium, interest, etc. as per law. It is this judgement and award which is the subject matter of the present appeals.

4. When these matters were taken up for hearing, our attention was drawn to the fact that different first appeals were dealt with by this court at different points of time dealing with acquisitions for the very same project, and where the notifications under section 4 of the said Act were within a close time frame.

5. A large group of such matters was decided by an earlier Bench (Coram: N.J. Pandya and A.R. Dave JJ.) in First Appeal Nos.2091/93 to 2101/93 (and the group), decided on 16th March 1996.

6. In another group of matters viz. First Appeal Nos.6255/95 to 6391/95, the decision of the earlier Bench in the aforesaid group of matters was followed by a subsequent Bench (Coram: Y.B. Bhatt & R.P. Dholakia

JJ.), decided on 22nd July 1998. For the reasons given in the aforesaid two decisions the market value of the acquired lands was determined at Rs.7/- per square meter for irrigated lands and Rs.6/- per square meter for non-irrigated lands.

7. The aforesaid two decisions are decisions on the merits of the matter after having considered the evidentiary material on record, and in the context of the present group of matters no reason has been shown by learned counsel for the claimants as to why the aforesaid two decisions should not be followed. Even otherwise, no special facts or circumstances have been pointed out from the evidentiary material on record to justify any other figure of valuation.

8. Accordingly we find and hold that the market value of the lands under acquisition in the instant group of cases would be Rs.7/- per square meter for irrigated lands and Rs.6/- per square meter for non irrigated lands.

9. We may also note here only by way of confirmation of our findings recorded herein, that the said decision (which we have relied upon herein and discussed earlier) was challenged before the Supreme Court by the Union of India by filing a group of SLPs which came to be numbered as Special leave to Appeal (Civil) Nos.18183 to 18463 of 1997 (and others in the same group of SLPs). The Supreme Court issued notice to the opponents therein, i.e. the respondents in the First Appeals in the said decision, and after hearing both sides dismissed the aforesaid SLPs, by its order dated 5th January 1998. A certified copy of the said order of the Supreme Court was made available to the earlier Bench as recorded in that decision. Thus, we find that by the dismissal of the said SLPs, the said decision has been confirmed by the Supreme Court.

10. However, one contention raised by the learned counsel for the respondent requires to be accepted. In this context, it was submitted that the Reference Court has directed a deduction of 5% from the compensation allowable, in case the acquired lands happened to be new tenure lands. It is by now well settled law laid down by the Supreme Court (that no such deduction is permissible) in the case of State of Maharashtra Vs. Babu Govind, reported in AIR 1996 SC page 904, which decision has also been followed by this Court in the case of Deputy General Manager, ONGC Vs. Chaturji Lalaji, reported in 1998(1) GLR page 130. This position is not contested by learned

counsel for the appellant. Therefore, this deduction of 5% as directed by the Reference Court is quashed and set aside. Accordingly we direct that there shall be no such deduction.

11. We may only note for the purpose of record that the two earlier decisions referred to hereinabove also contain directions to the Collector to make a factual inquiry as to the date of taking possession in case there is any controversy in this regard, for the purpose of computation of additional compensation under section 23(1-A) and computation of interest under section 28 of the said Act. Similarly the Collector shall follow those directions mutatis mutandis in case there is a factual controversy in the instant cases.

12. It is clarified that the land holders-original claimants shall be entitled to solatium at the rate of 30% of the amount of compensation at the rate determined by us hereinabove, as also additional compensation under section 23(1-A) of the Act and further interest under section 28 of the said Act.

13. The impugned judgement and awards are consequently modified to the aforesaid extent.

14. No other contention is raised.

15. Accordingly these appeals are partly allowed with no order as to costs. Decree accordingly.

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